

### **REMARKS**

Claims 22, 25, 102, 117-119, 123-125, 135, 136, 145-152 and 155-176 were previously pending in this application. By this amendment, Applicant is canceling claims 157 and 166 without prejudice or disclaimer. Applicant maintains the right to pursue the subject matter of the canceled claims in one or more continuing applications. Claims 22, 25, 155, 156, 164 and 165 have been amended. As a result claims 22, 25, 102, 117-119, 123-125, 135, 136, 145-152 and 155, 156, 158-165 and 167-176 are pending for examination with claims 22, 25, 102 and 123 being independent claims. No new matter has been added.

### **Information Disclosure Statement**

The Examiner has indicated that the application file contains a page 4 of an IDS received on 4/12/01. Applicant is herewith again submitting the IDS and PTO Form 1449 that were mailed to the USPTO on 04/10/01. A copy of the stamped return receipt postcard is also provided. Applicant wishes to note that all but two of the references listed in the PTO Form 1449, and indicated with an asterisk, were previously cited by or submitted to the office in a prior application, Serial No. 09/359,920, filed July 22, 1999, and relied upon for an earlier filing date under 35 U.S.C. 120. Therefore, Applicant is providing copies of the two references (WO 2001/06829 and WO 2001/07009) not indicated with an asterisk. Applicant is further providing copies of the related applications listed on page 1 of the IDS.

### **Rejections Under 35 U.S.C. §112**

The Examiner has rejected claims 22, 25, 145-152 and 155-172 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

The Examiner maintains that the specification fails to disclose treating a subject when transglutaminase is not present when body tissue is contacted with the microparticles of claims 22 and 25. Applicant has amended claims 22 and 25 as suggested by the Examiner to put this case in condition for allowance.

The Examiner maintains that the specification fails to support endogenous transglutaminase not being present in body tissue as encompassed by claims 155 and 164 as

compared to being in body tissue required by claims 157 and 166. Applicant has herewith canceled 157 and 166 to put this case in condition for allowance. The Applicant wishes to note for the record that the specification provides the teaching that transglutaminase may be supplied exogenously or it may be endogenous to the tissue (See, page 16, lines 12 and 13 of the instant specification). Depending on the type of body tissue or the circumstances of the medical intervention, it will be recognized by one of ordinary skill in the art that there may or may not be endogenous transglutaminase present, or the levels at which the endogenous transglutaminase is present may vary. The present claims are intended to embrace those situations where there is sufficient endogenous transglutaminase present to permit attachment of the microparticle and those circumstances where exogenous transglutaminase must be supplied.

The Examiner has indicated that the support for the specific body tissues of claims 158 and 167-171 is not readily apparent in the specification. Applicant wishes to point out to the Examiner that support for these specific body tissues can be found in the specification, for example, on page 14, lines 16-22.

Accordingly, withdrawal of this rejection is respectfully requested.

#### Rejections Under 35 U.S.C. §112

The Examiner has also rejected claims 157-161 and 166-170 under 35 U.S.C. §112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses the Examiner's rejection of these claims.

The Examiner maintains that claims 157 and 166 are unclear as to how they further limit claims 22 and 25 as endogenous transglutaminase is inherently present in body tissue. As claims 157 and 166 are canceled herewith, the rejection on this basis is now moot.

The Examiner maintains that claims 158-161 and 167-170 are rejected as "integument" is unclear. Applicant respectfully disagrees with the Examiner. Integument is a term recognized by those skilled in the art and the term is exemplified in the instant specification on page 14, lines 18 and 19. The ordinary meaning of this term (the term refers to the outer layers of tissue)

Serial No.: 09/620,783  
Conf. No.: 4731

- 11 -

Art Unit: 1651

taken together with the specific examples provided in the specification render this term sufficiently clear.

Accordingly, withdrawal of this rejection is respectfully requested.

Allowable Subject Matter

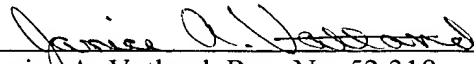
Applicant respectfully thanks the Examiner for indicating that claims 102, 117-119, 123-125, 135, 136 and 173-176 are allowed and that claims 22, 25, 145-152 and 155-172 are free of the prior art.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's representative at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,  
*Howard Green, et al., Applicant*

By:   
Janice A. Vatland, Reg. No. 52,318  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2211  
Telephone: (617) 646-8000

Docket No.: H0535.70012US00  
Date: June 10, 2004  
**x06/18/04x**